

REMARKS

Applicants have amended the Abstract as required by the Examiner.

The claims have been amended to patentably distinguish over the Wagner reference cited by the Examiner. The Wagner reference shows a flight assembly for a composter elevating device. The flight assembly includes a lower end which is at the rear and an upper end which is at the forward end of the device. This is to be contrasted with the present invention which has the lower end at its forward end and the upper end at its rear end. The action is entirely different between the Wagner device and the device of the present invention. In the present invention, the material is lifted and carried upwardly on the upwardly presented and rearwardly extending surface of the belt and then is deposited at the rear end of the device. In the Wagner reference, the material is aerated and chopped, but it is not carried on an upwardly presented surface to the rear end of the device as suggested by the claims.

Claim 1 patentably distinguishes over the Wagner reference cited by the Examiner. The claim requires a first track assembly and a second track assembly spaced apart from one another and having continuous tracks. The track assemblies are required to engage the ground and be adapted to move in a forward direction on the ground towards the material piled on the ground. There are no such tracks shown in the Wagner reference.

In addition, claim 1 requires the lower end of the lift assembly to be positioned adjacent the ground and the upper end to be positioned in a spaced relation above "and rearwardly of" the lower end whereby the belt includes "an upwardly presented front belt surface extending upwardly from the lower end to the upper end and a downwardly presented rear belt surface extending from the upper end to the lower end. The Wagner reference does not include these upwardly and downwardly presented surfaces in the configuration required by claim 1.

Applicants' invention distinguishes over prior patents such as the Schnittjer Patent 4,976,095 because it includes tracks located on opposite sides of the lift assembly. The lift assembly in the Schnittjer reference includes a drive train located only at one side of the device and therefore tremendous bending forces are placed on the lift assembly and its connection to the drive assembly. In the present invention, the track assemblies have the lift assembly therebetween so that these bending forces are not applied. The Wagner reference cited by the Examiner does not disclose track assemblies and does not disclose a drive mechanism connected to a lift mechanism with the lift mechanism between the two track assemblies as required by claim 1.

Accordingly, claim 1 patentably distinguishes over the art cited by the Examiner.

Claim 2 depends from claim 1 and is patentable for the reasons set forth as to that claim. In addition the claim requires that the frame member be stationary with respect to the movement of the belt of the lift assembly. The adjustable vanes are mounted to the stationary frame member. In contrast the Wagner reference discloses no such vanes which are mounted in a position stationary with respect to the moving belt. Instead the vanes 40 cited by the Examiner are moveable with the belt instead of being stationary with respect thereto. Accordingly claim 2 further patentably distinguishes over the art cited by the Examiner.

Claim 3 depends from claim 2 and requires that the vanes be in first and second groups and that each of the groups is "independently adjustable to change independently the direction of the flat vane surfaces of the first and second groups of vanes so as to direct and guide material in first and second different directions as the material passes over the upper end of the lift." None of the prior art shows these first and second groups of vane surfaces. Patent 4,976,095 to Schnittjer shows vanes 96, but these vanes are not shown to be in two independently moveable

groups of vanes as required by claim 3. Accordingly, claim 3 patentably distinguishes over the art cited by the Examiner.

Claim 4 depends from claim 1 and is patentable for the reasons set forth as to that claim.

Claim 5 depends from claim 4 and further requires that the tightening apparatus comprise a hydraulic cylinder "enclosed within a hydraulic cylinder protective housing so as to protect the hydraulic cylinder from coming in contact with the material." The Examiner cited the Merten Patent 5,641,058 as showing a tensioning device. However, there is no disclosure of enclosing this device within a protective housing so as to protect the hydraulic cylinder from coming in contact with the material. Accordingly, claim 5 further patentably distinguishes over the art cited by the Examiner.

Claim 6 is an independent apparatus claim which has been amended to distinguish over the Wagner reference by requiring the belt to have an upwardly extending surface extending from the lower end of the belt assembly to the upper end of the belt assembly. This claim also distinguishes over the other art cited by the Examiner by requiring a first track assembly and a second track assembly is spaced apart from one another and straddling the windrow. No such track assemblies are shown in the cited art and accordingly claim 6 further patentably distinguishes over the art cited by the Examiner.

Claim 7 depends from claim 6 and is patentable for the reasons set forth as to that claim. Furthermore, claim 7 requires that the frame member be stationary with respect to the belt and that a plurality of vanes be mounted on the frame member in spaced relation to one another adjacent the upper end for engaging and guiding the material. The Wagner reference fails to disclose this structure and therefore claim 7 further patentably distinguishes over the art cited by the Examiner.

Claim 8 depends from claim 7 and is patentable for the reason set forth as to that claim. In addition, claim 8 requires the first and second groups of vanes discussed above with respect to claim 3. Accordingly, claim 8 is patentable over the art cited by the Examiner.

Claims 9 and 10 depend from claim 6 and are patentable for the reasons set forth as to that claim.

Claims 11-13 have been cancelled.

Claim 14 is a method claim which has been amended to patentably distinguish over the Wagner reference cited by the Examiner. It requires moving an upwardly presented front face of the belt from the lower end to the upper end and moving a downwardly presented back face of the belt from the upper end to the lower end. This is the exact opposite from what is shown in the Wagner reference and accordingly claim 14 patentably distinguishes over the art cited by the Examiner.

Claims 15-19 depend from claim 14 and are patentable for the reasons set forth as to that claim.

Claim 20 is an independent method claim which involves the step of taking an apparatus having the same structure as previous claim 1. The next step in the process involves powering the first and second track assemblies independently of one another so as to steer the apparatus in a forward direction toward the windrow. None of the prior art shows independently powering the first and second track assemblies so as to steer the apparatus toward the windrow. Also, the Wagner reference fails to show an upwardly presented front belt surface which is moved upwardly from the lower end of the lift assembly to the upper end of the lift assembly as required by claim 20. There is no showing of steering the first and second track assembly so that they straddle the windrow and the lower end of the lift assembly engages the windrow and causes the

material in the windrow to be carried by the upwardly presented front belt surface to the upper end of the lift assembly. Accordingly claim 20 patentably distinguishes over the Wagner reference and should be allowed.

Claim 21 depends from claim 20 and requires the use of a first group of vanes to deflect a first portion of material being dropped from the lift assembly in a first direction and using a second group of vanes to deflect a second portion of the material being dropped from the top end of the lift assembly in a second direction. None of the prior art, including the Wagner reference, shows these first and second groups of vanes deflect the material into different directions.

Claim 22 depends from claim 20 and further requires using a longitudinally extensible piston and cylinder "located inside the first and second tube members" to cause the first member to telescope and expand longitudinally with respect to the second tube member so as to increase the tension of the belt trained around the first and second rotating members.

The Examiner has cited the Merten reference to show an expandable tensioning device. However, there is no disclosure that this tensioning device is placed within two telescoping tubes so as to protect the piston and cylinder from the material being composted. Accordingly, claim 22 further patentably distinguishes over the art cited by the Examiner.

Applicants respectfully request that a Notice of Allowance be issued. If a telephone interview would facilitate prosecution of the present application, Applicants invite the Examiner to telephone Applicants' attorney of record at the below identified number.

No fees or extensions of time are believed to be due in connection with this amendment; however, consider this a request for any extension inadvertently omitted, and charge any

additional fees to Deposit Account No. 26-0084.

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